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EMS Code Task Force Meeting Minutes November 6, 2008

The Idaho Code Task Force held a meeting on this date in the Management Conference Room (N4) St. Alphonsus Regional Medical Center, 1055 N Curtis, Boise, Idaho. Facilitator Bob Werth called the meeting to order at 9:05 a.m.

Task Force Member Attendees:

Bob Werth, Facilitator
Dia Gainor, EMS Bureau
Gary Rohwer, ISFCA
Joe Young, IAC
Mark Niemeyer, IFCA
Roger Christensen, IAC
Ron Anderson, IFCA
Ron Frazell, ISFCA
Ted Ryan, IHA
Teresa Baker, IAC
Tom Allen, AIC
Troy Hagen, IAC
Wayne Denny, EMS Bureau

Other Attendees:

Paul Roberts, Boise Fire
Dan Friend, Eagle Fire
Kevin Courtney, Star Fire
Scott Tucker, Canyon Co Paramedics
Peter Benjamin, Canyon Co Paramedics
Barbara Pyle, Donnelly Fire Dept
Juan R. Bonilla, Donnelly Fire Dept
Diana Hone, EMS Bureau

Joe Young made the presentation to the Idaho Association of Counties (IAC) meeting in Idaho Falls with Roger. They asked questions we were asking two years ago and the “what ifs.” Commissioner Young tried to explain that there would be flexibility at the local level. The association was in favor of moving the concept of the legislation forward.

Roger met with Representative Lake, Chairman of the House Revenue and Taxation Committee. He was pretty favorable once he started getting a hold of the concept. His biggest concern was about the ability to fine. He thought that would be a deal breaker. He had some concern about the levy but after explaining it he was fairly comfortable. He said there would be 3 automatic no votes. Dia stated her biggest concern was Rep. Lake and his fellow committee members’ lack of common knowledge about EMS. This is not the committee we usually take EMS matters to.

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Troy made the presentation at EMS Advisory Committee (EMSAC) last week. He noted that the consumer member Diane Barker, who is an economist, was very pleased. She stated that consumers are sick and tired of the unnecessary duplication of services. He did not receive much feedback or questions.

Ted Ryan and Mike McGrane spoke to Canyon County Paramedics yesterday.

One suggestion: Line 401 in Section 44 – change “interfacility transfers” to “specialty care transports”

Section 47 needed clarification as to what level this goes to. There was concern that a loophole might be created here. If an agency is putting a patient on a stretcher in the back of a van, even though they are taking them to a doctor appointment should that be regulated or not?

Also concerned about overall authority in terms of elected officials on the board. They felt that this is not true representation because if a person lives in Kuna and the mayor of Boise is sitting on the board the person is not truly being represented by that mayor because they did not elect them. Not true representation unless it is a county-wide type thing. Melba folks gave the example that if the fire commissioner were from Parma, the mayor or city council representative was from Nampa and the county commissioner was not from their area, they don’t feel like they have a voice on the governing board.

Discussion occurred about whether the proposal should have elected officials of this separate taxing district.

Section 46 - concern expressed at EMSAC from chair of air medical subcommittee of that group – need to remove the italicized line at the end of this section. Dia noted this should have been stricken a few versions ago.

Ron Frazell reported that the Fire Commissioners had their conference in Post Falls last week. Ron and Mark did an excellent job with the presentation. There were lots of questions covering a lot of topics. The biggest sticking point from commissioners from all over the state was the governance. They said they could not support the current draft. There was a motion to not support this legislation this year. They want the task force to continue working on it and come up with some refinement.

Because of questions raised at the last task force meeting, Gary Rohwer and Sam Scheu went through the proposed legislation document line by line and “red-lined” the draft as a Idaho State Fire Commissioners Association (ISFCA) working document. ISFCA would like the task force to review this to clear up any misunderstandings and make sure things were not inadvertently left out that some felt were going to be included.

One of their biggest concerns was that the code is not quite to the point where it is a clear handbook of exactly how to set one of these things up. There needs to be a clear mechanism so that a system does not languish out there without being set up.

The issue of getting proper representation of all of the players at the political authority level was definitely an issue. Gary repeated that ISFCA does not feel the legislation is ready to take to the legislature at this time. Dia asked if a bill were presented, would ISFCA oppose it. Gary said ISFCA would look at the legislation and decide. They don’t want the two years of work to totally go to waste, but feel it is not ready yet. They do like the medical authority controlling the medicine. ISFCA felt the political authority structure must be very fair, reflect one-man one-vote

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mentality. Dia asked what that means? Gary responded that every citizen should have equal impact into the system. The ISFCA membership, not the board, really feels it is not run-able yet.

Dia asked for more clarification on the political authority composition issue: one-man one-vote. Does it mean separate EMS system district commissioners as fire districts have today?

Gary's response was that every licensed EMS agency should have some impact.

Roger commented you only have two choices then either have three county commissioners that are elected by everyone or a separate three member board like a fire district that are elected at large.

Joe Young said they had the same type of discussion at his meeting but when the vote was taken an obvious majority voted to move the "concept" forward. Are you saying the body does not approve the concept moving forward?

ISFCA is conceptually in agreement that EMS systems need to be created. But the current proposal is not ready to go to the legislature. They will not support it until the key points have been addressed. They want the task force to review the red-lined document and get back to them. The other concern is having it clear in the code as to how the auditing process would go on so that it is clear between all of the agencies involved how the funds are getting spent. The bookkeeping section in other sections of Idaho Code are real clear as to how you do those things.

Ron Anderson stated that he is not as optimistic this month that the legislation is going to have widespread support statewide. He attended the meeting with Representative Lake and also did a teleconference bridge call with the Association of Idaho Cities which included several attorneys from cities around the state. They have a lot of questions about separate sovereignty and if we have the authority in state law to change some of those things. They feel there are some legal questions that need to be answered. Ron noted that at first when we did the presentations there was just silence and we assumed the silence meant agreement. Now as we do the presentations there are a ton of questions. It has been his experience that what normally happens with the legislature is that when they hear about a bill the first thing they do is they call back home and talk to the local fire chief or local EMS representative, etc. and say what do you know about this bill. There is a whole bunch of people that still have questions that we haven't been able to answer, or at least the answers we've given them haven't settled all that well. Ron feels that if the task force moves forward with the legislation this year it will get beat up and we will lose this legislation by our own people because as well thought out of a plan as this is there are still too many questions and concerns.

When he gave the presentation to the Ada County Fire Chiefs the first time he did not get much feed back. But the second time he gave the presentation he received a lot of feedback. Some of the questions about the board and the makeup are still not setting real well with the folks out there.

Another issue was about resolving the problem with conflicting medical direction. The legislation provides a process of mediation and then the EMS Physician Commission. But in the end, if they still disagree, they go to court. This is right where we are at today so all that has been accomplished is to put some more steps in front of that process.

The Idaho Fire Chiefs Association Board has voted to support the legislation. Ron did not know what would happen with the Association of Idaho Cities the next day. There are fire departments in the state that are adamantly opposed to this and they will pull out all stops to try to defeat it.

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Tom Allen stated he has been involved in several of these presentations, meetings and conference calls and there is an undercurrent that this is not ready even if they lean towards supporting it, it is too much too fast. There is a common concern over sovereignty, police powers, constitutionality.

In addition, Tom raised issues with the proposed EMS Bureau legislation that will be submitted this session separate from the Code Task Force EMS System District legislation. He noted there is strong opposition to items #7 and #8 in Section 56-1016 requiring endorsement from either the county commissioners, the board of health and welfare, or an EMS district for an agency to receive a new license or change the status of their existing license. Some feel this is a step backwards to pre-2003 authority and conflict status and would inflame the conflicts that already exist which the code task force legislation is trying to remedy. Some feel that if the Bureau goes forward with these items it sabotages confidence in the code task force legislation, feeling that this is blackmailing them to either take the EMS System District legislation or else they will be stuck with this new Bureau approach.

A lengthy discussion ensued, including audience member participation, with Dia explaining the need for updating the EMS Bureau legislation including the fact that currently the Bureau is unable to reject an agency application if they meet the basic equipment and staffing requirements. The Bureau cannot take into consideration how the new license will impact the overall EMS system in the area. Someone needs to be able to assess the impact and the agency needs to be able to prove their new license will be a benefit to the system rather than a detriment. There has been an increasing degree of destabilization throughout the state and the Bureau needs someone to have the ability to evaluate agency licensure. Dia felt the proposed legislation gives the bureau the licensing regulating ability needed and at the same time supports the move towards the code task force legislation. Tom felt it slants things back in favor of one of the groups involved in the power struggle that the code task force came together to correct.

It was suggested that a state licensure committee rather than the competing local level authority should make the evaluation and endorsement. One-man one-vote, every agency represented sentiments were brought up throughout the discussion. It was suggested that the task force should go back and reevaluate having the EMS system governing board be three (3) elected EMS commissioners. It was generally felt that someone has to be in charge of licensing rather than the chaos that is in place now and that we can't go another year without something being done. It seems that in all the presentations given the common concern is the fairness of the political board and representation.

Another repeated concern is the flexibility to allow an existing system that is working well to continue running as is rather than being forced to adopt the proposed code task force EMS system district. Flexibility in the number of people on the governing board has been suggested. The Valley County joint powers type board was also specifically referenced.

At the end of the day Dia proposed replacing the endorsement or waiver sections (items 7 and 8 of 56-1016) with a performance based set of requirements for agency license applications. The provision would read something like: Using a NEMSIS compliant data collection system, and where appropriate, economic analysis, the applicant must demonstrate that the licensure change meets objective criteria related to response time, system costs and projected change in clinical

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outcome of patients in accordance with EMS rules. The entire list of detailed criteria would not be included in code but that would be in negotiated rule making.

The negotiated rule making process would begin with this criteria for a required licensure “study”:

1. The applicant must demonstrate that the licensure change will result in a statistically significant reduction in response time,
2. Or a reduction of the per capita subsidy for its own or another unit of local government,
3. Or a reduction in fees charged to patients,
4. Or a prediction of improvement in clinical outcome.

WITHOUT causing any of the following:

1. A statistically significant increase in response time of any transport agency that would respond to the same patients,
2. Or an increase in the per capita subsidy for another unit of local government,
3. Or an increase in fees charged to patients,
4. Or a detriment in clinical outcome or clinical proficiency of existing EMS personnel.

Other non-transport and ambulance services that respond to patients in the same jurisdiction at the time of licensure study submission will be provided a copy of the licensure study and given and opportunity to affirm the study findings.

This performance based criteria license application would be brought before the licensure sub-committee of EMSAC.

NEXT MEETING - Monday, November 24th, same room and place at St. Alphonsus
Agenda:

- Review the red line document presented by ISFCA
- Explore elected 3 member EMS board rather than the current alternate proposal for political authority
- Explore performance based criteria for licensing